IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1293 OF 2004
IN
WRIT PETITION NO.8579 OF 2003

M/s.GTCL Mobile-Com Technology Ltd.
& Anr. .. Petitioners
V/s
The Bank of Rajasthan Ltd. & Ors. .. Respondents

Mr.Hiralal Thaker i/by Mr.Vishal Thaker for the Petitioners.

Mr.Manish Desai with Mr.Sowjanya Menon for the Respondent No.1.

CORAM: S.RADHAKRISHNAN &
S.A.BOBDE, JJ.
DATE : 20.10.2004.

P.C.:

1. Heard the learned Counsel for the Petitioners and the learned Counsel for Respondent No.1. The Respondent Nos.2 to 7 are supporting the Petitioners. By this Civil Application the Petitioners are seeking to recall the order dated 23rd April, 2004 whereby the petition was dismissed for want of prosecution in view of the fact that on that date neither the Petitioners nor the Advocate for the Petitioners was present before the Court.

2. Perused the Medical Certificate which is annexed as Exh.‘C’ to the Civil Application. The said medical certificate clearly indictes that the Advocate Mr.Vishal Thaker was examined at the hospital for severe abdominal pain and the dignosis of having Kidney Stone. It is mentioned in the Civil Application that on 22nd April,

2004 itself the learned Advocate for the Petitioners had informed the Court that he had an appointment with the Doctor on 23rd April, 2004 and as such it would be difficult for him to attend the Court. Perused the affidavit in reply also.

3. Having regard to the aforesaid facts and circumstances and in the larger interest of justice, we are inclined to recall the order dated 23rd April, 2004 whereby the Petition was dismissed for want of prosecution. Hence, Civil Application is made absolute in terms of prayer clause (a).

4. The issues with regard to the maintainability & merits of the Petition which are raised by the learned Counsel for Respondent No.1 are expressely kept open to be decided at the time of final hearing of the Petition.

5. Both the learned Counsel by consent make a request that the issue involved in the Petition is very short and pray for an early hearing of the Petition. Hence hearing is expedited. Place the above Writ Petition No.8579/2003 on board peremptorily for final hearing on 2.11.2004 at 2.45 p.m.

(S.RADHAKRISHNAN,J.)

(S.A.BOBDE,J.)